

SENATE BILL 812

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SB 587/96 - JPR

2001 Regular Session  
11r2871

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By: ~~Senator Van Hollen~~ **Senators Van Hollen, Colburn, Ferguson, Mitchell,  
Mooney, and Sfikas**

Introduced and read first time: February 14, 2001  
Assigned to: Rules  
Re-referred to: Judicial Proceedings, February 21, 2001

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Committee Report: Favorable with amendments  
Senate action: Adopted  
Read second time: March 22, 2001

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **First Degree Rape and First Degree Sexual Offense - Mandatory Minimum**  
3 **Penalty**

4 FOR the purpose of imposing a certain mandatory minimum term of imprisonment on  
5 a person who is convicted of first degree rape or first degree sexual offense;  
6 providing that the mandatory minimum term of imprisonment may not be  
7 suspended; providing that a person sentenced to a mandatory minimum term of  
8 imprisonment for certain convictions may not be granted parole except under  
9 certain circumstances; and generally relating to a mandatory minimum penalty  
10 for first degree rape and first degree sexual offense.

11 BY repealing and reenacting, with amendments,  
12 Article 27 - Crimes and Punishments  
13 Section 462 and 464  
14 Annotated Code of Maryland  
15 (1996 Replacement Volume and 2000 Supplement)

16 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
17 MARYLAND, That the Laws of Maryland read as follows:

**Article 27 - Crimes and Punishments**

2 462.

3 (a) A person is guilty of rape in the first degree if the person engages in  
4 vaginal intercourse with another person by force or threat of force against the will  
5 and without the consent of the other person and:

6 (1) Employs or displays a dangerous or deadly weapon or an article  
7 which the other person reasonably concludes is a dangerous or deadly weapon; or

8 (2) Inflicts suffocation, strangulation, disfigurement, or serious physical  
9 injury upon the other person or upon anyone else in the course of committing the  
10 offense; or

11 (3) Threatens or places the victim in fear that the victim or any person  
12 known to the victim will be imminently subjected to death, suffocation, strangulation,  
13 disfigurement, serious physical injury, or kidnapping; or

14 (4) The person commits the offense aided and abetted by one or more  
15 other persons; or

16 (5) The person commits the offense in connection with burglary in the  
17 first, second, or third degree.

18 (b) (1) Except as provided in paragraph (2) of this subsection, any person  
19 violating the provisions of this section is guilty of a felony and upon conviction is  
20 subject to imprisonment for [no] NOT LESS THAN 10 YEARS NOR more than the period  
21 of his natural life.

22 (2) (i) If the victim was a child under 16 years of age and the  
23 defendant was convicted in the same proceeding of violating § 338 of this article, any  
24 person who violates the provisions of this section is guilty of a felony and upon  
25 conviction is subject to imprisonment for not LESS THAN 10 YEARS NOR more than life  
26 without the possibility of parole.

27 (ii) If the State intends to seek a sentence of imprisonment for life  
28 without the possibility of parole under subparagraph (i) of this paragraph, the State  
29 shall notify the person in writing of the State's intention at least 30 days prior to trial.

30 (3) NOTWITHSTANDING ARTICLE 27, § 643 OF THE CODE, IT IS  
31 MANDATORY ON THE COURT TO IMPOSE NO LESS THAN THE MINIMUM SENTENCE OF  
32 10 YEARS IMPRISONMENT.

33 (4) THE MANDATORY MINIMUM SENTENCE OF 10 YEARS IMPRISONMENT  
34 MAY NOT BE SUSPENDED.

35 (5) EXCEPT AS PROVIDED IN TITLE 4 OF THE CORRECTIONAL SERVICES  
36 ARTICLE, A PERSON SENTENCED UNDER THIS SECTION IS NOT ELIGIBLE FOR  
37 PAROLE IN LESS THAN 10 YEARS.

1 464.

2 (a) A person is guilty of a sexual offense in the first degree if the person  
3 engages in a sexual act with another person by force or threat of force against the will  
4 and without the consent of the other person and:

5 (1) Employs or displays a dangerous or deadly weapon or an article  
6 which the other person reasonably concludes is a dangerous or deadly weapon; or

7 (2) Inflicts suffocation, strangulation, disfigurement, or serious physical  
8 injury upon the other person or upon anyone else in the course of committing the  
9 offense; or

10 (3) Threatens or places the victim in fear that the victim or any person  
11 known to the victim will be imminently subjected to death, suffocation, strangulation,  
12 disfigurement, serious physical injury, or kidnapping; or

13 (4) The person commits the offense aided and abetted by one or more  
14 other persons; or

15 (5) The person commits the offense in connection with burglary in the  
16 first, second, or third degree.

17 (b) (1) Except as provided in paragraph (2) of this subsection, any person  
18 violating the provisions of this section is guilty of a felony and upon conviction is  
19 subject to imprisonment for [no] NOT LESS THAN 10 YEARS NOR more than the period  
20 of his natural life.

21 (2) (i) If the victim was a child under 16 years of age and the  
22 defendant was convicted in the same proceeding of violating § 338 of this article, any  
23 person who violates the provisions of this section is guilty of a felony and upon  
24 conviction is subject to imprisonment for not LESS THAN 10 YEARS NOR more than life  
25 without the possibility of parole.

26 (ii) If the State intends to seek a sentence of life without the  
27 possibility of parole under subparagraph (i) of this paragraph, the State shall notify  
28 the person in writing of the State's intention at least 30 days prior to trial.

29 (3) NOTWITHSTANDING ARTICLE 27, § 643 OF THE CODE, IT IS  
30 MANDATORY ON THE COURT TO IMPOSE NO LESS THAN THE MINIMUM SENTENCE OF  
31 10 YEARS IMPRISONMENT.

32 (4) THE MANDATORY MINIMUM SENTENCE OF 10 YEARS IMPRISONMENT  
33 MAY NOT BE SUSPENDED.

34 (5) EXCEPT AS PROVIDED IN TITLE 4 OF THE CORRECTIONAL SERVICES  
35 ARTICLE, A PERSON SENTENCED UNDER THIS SECTION IS NOT ELIGIBLE FOR  
36 PAROLE IN LESS THAN 10 YEARS.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
2 October 1, 2001.